

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VERO HOLDINGS, INC. Plaintiff,	§	
	§	
	§	
vs.	§	5:17-cv-00840
	§	Civil Action Number
ROCKHILL INSURANCE COMPANY,	§	
STATE AUTO PROPERTY & CASUALTY	§	
INSURANCE COMPANY, AND	§	
KELLY GENTRY	§	
Defendants.	§	Jury

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants, Rockhill Insurance Company, State Auto Property & Casualty Insurance Company, and Kelly Gentry (hereinafter collectively referred to as "Defendants"), file this Notice of Removal pursuant to 28 U.S.C. §1446(a), and would respectfully show as follows:

I.
INTRODUCTION

1. Plaintiff is Vero Holdings, Inc. ("Plaintiff"); Defendants are Rockhill Insurance Company ("Rockhill"), State Auto Property & Casualty Insurance Company ("State Auto") and Kelly Gentry ("Gentry"). There are no other parties. *See* Plaintiff's Original Petition, attached as Exhibit "A - 1".
2. On June 29, 2017, Plaintiff filed Cause No. 2017CI11945, *Vero Holdings, Inc. v. Rockhill Insurance Company, State Auto Property & Casualty Insurance Company, and Kelly Gentry*, in the District Court of Bexar County, Texas, 166th Judicial District ("State Court Action"). *See* Exhibit "A - 1". Plaintiff's suit alleges breach of contract, violations of the Texas Insurance Code, and breach of good faith and fair dealing, relating to storm damage allegedly suffered at

Plaintiff's commercial property located at 14910 Nacogdoches Road, San Antonio, Texas 78247. See Exhibit "A - 1". Plaintiff demanded a trial by jury in its Original Petition. See Exhibit "A - 1."

3. Citation was issued to Rockhill and Rockhill was served with the suit on August 11, 2017 through the commissioner of insurance at the Texas Department of Insurance. See Exhibit "A - 6" and Affidavit of Sherri King, attached as Exhibit "B". Citation was issued to State Auto and State Auto was served on August 14, 2017. See Exhibit "A - 7" and Exhibit "B". Citation was issued to Gentry and Gentry was served with the suit on August 11, 2017 through the Texas Secretary of State. See Exhibit "A - 8" and Affidavit of Kelly Gentry, attached as Exhibit "C." Rockhill, State Auto, and Gentry file this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b). *Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

4. Plaintiff has not filed any amended pleadings and no additional parties have been joined. The State Court's docket sheet is attached hereto as Exhibit "A - 10."

II.

REMOVAL BASED ON DIVERSITY JURISDICTION

5. Pursuant to 28 U.S.C. §1332(a), Rockhill, State Auto, and Gentry remove this case as it involves a controversy between parties of diverse citizenship and an amount in controversy that exceeds \$75,000.

6. Plaintiff's Original Petition states that it "resides in Bexar County, Texas." See Exhibit "A - 1." Upon information and belief, Plaintiff is a foreign corporation organized under the laws of Florida with its principal place of business located in San Antonio, Texas. See Texas Secretary of State, Business Organizations Inquiry, attached as Exhibit "D." Rockhill is a foreign corporation organized under the laws of the state of Arizona with its principal place of business

located at 700 West 47th Street, Suite 350, Kansas City, Missouri 64112. *See* Exhibit “B.” State Auto is a foreign corporation organized under the laws of the state of Iowa with its principal place of business located at 518 E. Broad Street, Columbus, Ohio 43215. *See* Exhibit “B”. Gentry is a citizen of Ohio residing at 7149 Snowberry Lane, Canal Winchester, Ohio 43110. *See* Exhibit “C.” Regardless of whether Plaintiff is a Texas or Florida corporation, complete diversity exists under 28 U.S.C. §1332(a).

7. Additionally, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. §1332(a). Plaintiff’s Original Petition seeks “monetary relief over \$200,000.00 but not more than \$1,000,000.00.” *See* Exhibit “A - 1”.

8. Rockhill, State Auto and Gentry are the only defendants in this action; therefore, no consent is needed for the removal of this case to federal court.

9. An Index of Exhibits is attached as Exhibit “A”. Copies of all pleadings, process, orders, and other filings in the State Court Action are attached to this notice as Exhibits “A - 1” through “A - 9”, as required by 28 U.S.C. §1446(a). A copy of the docket sheet for the State Court Action is attached as Exhibit “A - 10.”

10. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this District and within this Division.

11. Defendants will promptly file a copy of this Notice of Removal with the clerk of the court in the pending State Court Action.

III.
JURY DEMANDED

12. Plaintiff demanded a jury in the State Court Action.

IV.
PRAYER

WHEREFORE PREMISES CONSIDERED, Defendants pray that this case be removed to the United States District Court for the Western District of Texas, San Antonio Division, and that further proceedings in the State Court Action be discontinued, and that this Court assume full jurisdiction over such action as provided by law.

Respectfully submitted,

/s/ Sterling Elza
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**ATTORNEY FOR DEFENDANTS,
ROCKHILL INSURANCE COMPANY, STATE
AUTO PROPERTY & CASUALTY
INSURANCE COMPANY, AND KELLY
GENTRY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was served upon the Plaintiff, by serving counsel of record, William T. Jones, Jr., Robert D. Green, Daniel P. Barton, Green & Barton, 1201 Shepherd Drive, Houston, Texas 77007, (713) 621-5900, via fax and certified mail, return receipt requested, on this the 31st day of August, 2017.

/s/ Sterling Elza
Sterling Elza